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## Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HOWARD THOMAS AND SHIRLEY THOMAS, ) Case No. C 10-00001 JF  
Plaintiffs, )  
v. )  
UNITED STATES OF AMERICA, et al, )  
Defendants. )  
)  
**E-FILING CASE**  
STIPULATION AND [PROPOSED]  
ORDER TO TRANSFER CASE TO  
SOUTHERN DISTRICT OF CALIFORNIA

Whereas, this action arises under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. Sections 2671, et seq.

Whereas, actions under the FTCA may be prosecuted either where the plaintiff resides or where the act or omission occurred. 28 U.S.C. Section 1402(b); see *Del Raso v. United States*, 244 F.3d 567, 570 fn.1 (7<sup>th</sup> Cir. 2001).

Whereas, plaintiffs reside in the Southern District of California.

Whereas, the acts and omissions alleged in the Complaint occurred at the United States Penitentiary in Atwater, California, which is located in the Eastern District of California.

Whereas, venue lies in either the Southern District of California or the Eastern District of California and not in the Northern District of California, where this case is currently pending.

STIPULATION AND PROPOSED ORDER TO TRANSFER  
Case No. C 10-00001 JF -1-

1 Whereas, defendant USA appears specially for the sole and limited purpose of objecting to  
2 venue and entering into this stipulation.

3 Therefore, the parties stipulate, through counsel, that this action be transferred to the United  
4 States District Court for the Southern District of California.

5  
6 Respectfully submitted,

7  
8 DATED: March 8, 2010

9 JOSEPH P. RUSSONIELLO  
United States Attorney

10  
11 By: \_\_\_\_\_ /S/

12 JAMES A. SCHARF  
Assistant United States Attorney

13  
14 DATED: March 8, 2010

MILLER & JAMES, LLP

15 By: \_\_\_\_\_ /S/

16 Patricia I. James, Attorneys for Plaintiffs

17  
18 Pursuant to the stipulation of the parties, and good cause appearing, it is hereby ordered  
19 that this action be transferred to the United States District Court for the Southern District of  
California.

20 IT IS SO ORDERED.

21  
22 DATED: March 10, 2010

23 Hon. Jeremy Fogel D. Fogel  
United States District Court Judge  
Northern District of California